

Before the
Federal Communications Commission
Washington, D.C. 20554

MAILED

JUL 13 2007

FCC

In the Matter of)

Amendment of Section 73.202(b))

Table of Allotments,)

FM Broadcast Stations.)

(Joliet and Lemont, Illinois))

MB Docket No. 04-34

RM-10848

REPORT AND ORDER
(Proceeding Terminated)

Adopted: July 11, 2007**Released: July 13, 2007**

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division considers herein the *Notice of Proposed Rule Making* ("Notice"),¹ issued at the request of Univision Radio License Corporation ("Univision"),² licensee of pre-1964 "grandfathered" Station WVIX(FM), Channel 228A, Joliet, Illinois. Univision filed comments. No counterproposals or other comments were received in response to this proceeding.

2. **Background.** The *Notice* proposed the reallocation of Channel 228A from Joliet to Lemont, Illinois, as its first local service, and modification of the Station WVIX(FM) license accordingly. Univision Radio filed comments, reiterating its expression of interest in the reallocation of Station WVIX(FM) to Lemont. The *Notice* stated that Station WVIX(FM) is a pre-1964 "grandfathered" station that is short-spaced to two other pre-1964 "grandfathered" stations,³ Stations WXRT-FM and WLIT-FM in Chicago, Illinois.

3. **Discussion.** Petitioner filed its request pursuant to Section 1.420(i) of the Commission's rules, which permits the modification of a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest in the proposed allotment.⁴ The proposed reallocation of Channel 228A at Lemont is mutually exclusive with the current authorized facilities of Station WVIX(FM), Channel 228A, Joliet, Illinois.

4. When considering a reallocation proposal, a comparison is made between the existing allotment and the proposed allotment to determine whether the reallocation would result in a preferential arrangement of allotments based upon the FM Allotment priorities.⁵ The proposed Lemont reallocation

¹ See *Joliet and Lemont, Illinois*, Notice of Proposed Rule Making, 19 FCC Rcd 3465 (MB 2004).

² The initial petition was filed by HBC License Corporation. Univision states in its comments that the licensee's name changed to Univision Radio.

³ Station WVIX(FM) is short-spaced to Stations WXRT-FM, Channel 226B, Chicago, Illinois and WLIT-FM, Channel 230B, Chicago, Illinois.

⁴ See *Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870 (1989), recon. granted in part, Memorandum Opinion and Order, 5 FCC Rcd 7394 (1990).

⁵ The FM Allotment priorities are (1) First full-time aural service. (2) Second full-time aural service. (3) First local service. (4) Other public interest matters. [Co-equal weight is given to priorities (2) and (3)], See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88, 91 (1988).

would provide a first local service, priority (3), whereas the retention of Station WVIX(FM) at Joliet would attribute to a sixth local service.⁶ As such, the reallocation proposal results in a preferential arrangement of allotments based on priority (3), first local service.

5. As stated in the *Notice*, Station WVIX(FM) operates as a pre-1964 "grandfathered" station that is short-spaced to two other pre-1964 "grandfathered" stations. A staff engineering analysis reveals that no new short-spacings would be created and no existing short-spacings would be exacerbated from the proposed reallocation of Station WVIX(FM) to Lemont. Therefore, consistent with *Newnan and Peachtree*⁷, we are reallocating Channel 228A from Joliet to Lemont, Illinois, as its first local service and modifying the Station WVIX(FM) license accordingly.⁸ We note that both Joliet and Lemont are located within the Chicago, Illinois Urbanized Area. In this regard, the 70 dBu signal would continue to encompass 9.5 percent of that urbanized area. Therefore, a *Tuck* analysis is unwarranted.⁹

6. The Commission will not send a copy of this *Report and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A) because these changes are of particular applicability.

7. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) and 47 C.F.R. Sections 0.61, 0.204(b) 0.283, and 1.420(i) IT IS ORDERED, That effective August 27, 2007, the Media Bureau's Consolidated Data Base System will reflect Channel 228A at Lemont, Illinois, as the reserved assignment for Station WFIX(FM), in lieu of Channel 228A at Joliet, Illinois.

8. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a) that the license of Univision Radio License Corporation for Station WVIX(FM), Channel 228A, Joliet, Illinois IS MODIFIED to specify operation on Channel 228A at Lemont, Illinois, subject to the following conditions:

- (a) Within 90 days of the effective date of the *Order*, the licensee of Station WVIX(FM) shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;
- (b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and
- (c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

⁶ AM Stations WJOL and WWHN, and FM Stations WCFS, WJCH and WLLI are currently licensed to Joliet.

⁷ *See Newnan and Peachtree City, Georgia*, Report and Order, 7 FCC Rcd 6307 (MMB 1992).

⁸ Channel 228A can be reallocated to Lemont, using Station WVIX(FM)'s current licensed coordinates (41-36-39 NL and 88-00-33 WL). This site requires a site restriction of 7.0 kilometers (4.4 miles) south of Lemont.

⁹ *Faye and Richard Tuck*, Memorandum Opinion and Order, 3 FCC Rcd 5374 (1988). *See also; East Los Angeles, Long Beach and Frazier Park, California*, Report and Order, 10 FCC Rcd 2864 (MMB 1995); *recon. dismissed*, 13 FCC Rcd 4692 (MMB 1998).

9. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (3)(l) of the Commission's rules, Univision Radio License Corporation, licensee of Station WVIX(FM), Channel 228A, Joliet, Illinois is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the community of license for Station WVIX(FM) to specify operation on Channel 228A at Joliet, Illinois at the time its Form 301 application is submitted.

10. IS FURTHER ORDERED, That the aforementioned proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Rolanda F. Smith, Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

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